

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 11TH OCTOBER 2007 / 19TH ASWINA 1929

W.A.No.2004 of 2007

AGAINST THE ORDER IN W.P.(C).NO.17767/2007-M, DATED 02/07/2007
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APPELLANTS: RESPONDENTS IN THE W.P.(C):-

1. THE STATE OF KERALA,
REPRESENTED BY ITS CHIEF SECRETARY,
SECRETARIAT,
THIRUVANANTHAPURAM.
2. THE SECRETARY,
FOREST DEPARTMENT,
GOVERNMENT SECRETARIAT,
TRIVANDRUM.
3. THE CONSERVATOR OF FORESTS,
CENTRAL CIRCLE,
THRISSUR.
4. THE DIVISIONAL FOREST OFFICER,
CHALAKUDY.
5. THE RANGE OFFICER,
PALAPPILLY,
THRISSUR.
6. THE RANGE OFFICER,
VELLIKULANGARA,
VARANDARAPALLY P.O.,
THRISSUR.

BY SENIOR GOVERNMENT PLEADER SRI.D.ANILKUMAR.
SRI.RENJITH THAMPAN,SPL.G.P. FOR FORESTS.

RESPONDENT: PETITIONER IN THE W.P.(C):-

M/S HARRISONS MALAYALAM LTD.,
BRISTOW ROAD,
WILLINGDON ISLAND,
COCHIN- 682003,
REPRESENTED BY ITS CHIEF MANAGER-LEGAL,
MR.V.VENUGOPAL.

BY ADV. SRI.L.NAGESHWARA RAO (SR.)
SRI.A.M.SHAFFIQUE
SRI.E.K.NANDAKUMAR
SRI.A.K.JAYASANKAR NAMBIAR.

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 11/10/2007,
THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

H.L. DATTU, C.J. & K.T. SANKARAN, J.

W.A. No. 2004 OF 2007

Dated this the 11th October , 2007

J U D G M E N T

H.L. Dattu, C.J.:

This appeal is filed against the interim orders dated 2nd July, 2007 passed by the learned single Judge in W.P.(C)No. 17767 of 2007 filed by the respondent-company. The said order reads as under:

“The learned counsel for the petitioner and the learned Special Government Pleader (Forests) were heard at length on the question of interim relief. After hearing, I pass the following interim orders:

In both cases, there would be an interim order as prayed for on the following conditions:-

The petitioner shall keep correct and accurate accounts in respect of the trees that are to be cut and removed from the petitioner's estates which shall be open for inspection by the Conservator of Forests or any officer authorised by him. Before removing the cut trees, the petitioner shall inform the concerned Conservator of Forests and the concerned Conservator of Forests or any officer authorised by him shall cause the trees to be inspected within a period of one week from the date of intimation and permit the petitioner to remove the same. The petitioner shall furnish a bond with sureties for the amount of seigniorage payable on the trees to be removed under the Kerala Grants and Leases (Modification of Rights) Act, 1980 at the rate of Rs.530/- per Metric Tone to the satisfaction of the concerned Conservator of Forests or officer authorised by him in that regard. ”

2. Aggrieved by the aforesaid interim order passed by the learned

single Judge, the respondents in the Writ Petition are before us in this appeal.

3. The learned Government Pleader, appearing for the appellants would submit that the learned single Judge is not justified in directing the respondent-company to execute a bond with sureties for the amount of seigniorage payable on the trees that may be cut and removed by the respondent-company. It is further submitted that the learned single Judge is not justified in fixing the rate of seigniorage value at Rs.530/- per Metric Tone. In support of that contention, the learned counsel takes us through Section 4 of the Kerala Grants and Leases (Modification of Rights) Act, 1980 (hereinafter referred to as 'Act').

4. The learned senior counsel, Shri Nageshwara Rao appearing for the contesting respondent-company, on instruction, would submit that the petitioner, instead of executing a bond, as directed by the learned single Judge, would pay the seigniorage value as prescribed under the Schedule appended to the Act. The learned senior counsel further would submit that the company would pay the seigniorage value at the scheduled rate, on Cubic Meter, not as directed by the learned single Judge, on the Metric Ton. In so far as the firewood is concerned, the learned senior counsel would submit that the company would pay the seigniorage value at the rate prescribed in the Schedule, if it is taken outside the lands in question.

5. The suggestion of the learned senior counsel is not opposed by the learned Government Pleader appearing for the appellants herein.

6. In view of the above, we modify the orders passed by the learned single Judge as under:

The petitioner-company would keep correct and accurate accounts in respect of the trees that are to be cut and removed from the petitioner's estates, which shall be opened for inspection by the Conservator of Forests or any officer authorised by him. Before removing the cut trees, the petitioner-company shall inform the concerned Conservator of Forests and the concerned Conservator of Forests or any officer authorised by him shall cause the trees to be inspected within a period of one week from the date of intimation and permit the petitioner to remove the same by paying the seigniorage value at the rates prescribed in the Schedule appended to the Act, 1980.

We also make it clear that the respondent-company shall pay the seigniorage value only if the cut trees are removed and/or to be removed from the limits of the lands that are in possession of the respondent-company.

With these observations and modifications, the Writ Appeal is disposed of.

**H.L. DATTU,
CHIEF JUSTICE.**

**K.T. SANKARAN,
JUDGE.**

lk/dk